HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE G.V.SEETHAPATHY

WRIT PETITION No. 23803 of 1995

Between:

Potula Subba Rao

…Petitioner

AND

Chief Secretary to the Government of
Andhra Pradesh, Hyderabad and others

…Respondents

Counsel for the petitioner: Sri T.Bheemsen

Counsel for Respondents: Govt. Pleader for Roads and Buildings.

Dated: 24-8-2006

ORDER:

Per G.S.Singhvi, CJ

In this petition, Sri Potula Subba Rao, who is practicing as an Advocate at Kakinada, has prayed for issue of a direction to the official respondents to take appropriate legal steps for restoration, protection and maintenance of statue installed on triangular piece of land situated on south and east corner of Cosmopolitan Club, Kakinada.

In the affidavit filed by him, the petitioner has averred as under:

1) that the statue of European lady with water flowing through vessel along with three ducks and a fountain existed in a triangular piece of land situated on south and east corner of Cosmopolitan Club, Kakinada;
2) that the statue is made of Italian marble;
3) that the triangular area was fenced and there was an inscription underneath the statue either in Dutch or Portugeese language;
4) that the statue is an antique piece and falls within the definition of 'ancient monument'.

He has further averred that the authorities of the State as well as the Municipal Corporation, Kakinada are under an obligation to preserve ancient and historical monuments, but they failed to protect the statute of European lady. Still further, the petitioner has averred that the statue was removed and in its place a Mahavir statue was installed on 13-4-1995. The petitioner is said to have represented to the District Collector against removal of the statue, but the latter informed that the statue of female was not a piece of antiquity. The petitioner has also made allegations of mala fides and averred that a thorough enquiry by the CID would reveal true nature of the actions and omission of the district authorities as also

municipal authorities who are liable to be prosecuted under Section 30 (2) of the Andhra Pradesh Ancient and Historical Monuments and Archaeological Sites and Remains Act, 1960.

In the counter-affidavit filed by Sri N.R.V.Prasad, the then Director of Archaeology and Museums, Government of Andhra Pradesh, it has been averred that the statue in question was not declared as a piece of antiquity and it is not a historical monument under the State Act or the Central Act. It has been further averred that as per letter in Rc.No.B/402/95 dated 31-10-1995 sent by the Curator, A.S.P. Government Museum and Research Institute, Kakinada, the statue in question was a cement statue, which is presently lying in the Engineering godown of the Municipality in a broken condition (without head and legs). In his affidavit Sri N.R.V.Prasad further averred that a statue of Mahavira has already been installed at the site.

The petitioner has filed a rejoinder reiterating his stand and prayed that the Court may direct the respondents to restore the statue of the European lady.

We have heard learned counsel for the parties and perused the record.

The petitioner's assertion that the statue of the European lady, which existed on the triangular piece of land near Cosmopolitan Club, Kakinada, is a piece of antiquity and historical monument does not find any support from any documentary evidence or the provisions of the Central or the State Statutes. It is neither the pleaded case of the petitioner nor any material has been placed before the Court to show that the Central or the State Government has issued notification of either of the Acts declaring the so-called statue of European lady with flowing water from a vessel as a piece of antiquity or that the same is a piece of historical importance. In the absence of such declaration, the Court

cannot issue a writ in the name of public interest for protection of the so-called statue.

The other reason for our disinclination to reject the petitioner's prayer is that the statue in question is no longer in the present site. According to the Curator, A.S.P. Government Museum and Research Institute, Kakinada, the statue in question is a cement statue which is now in a broken condition in the Engineering godown of the Municipality, Kakinada. Therefore, we do not find any valid ground or justification to issue a mandamus to the respondents to restore, protect and maintain the so-called statue of European lady.

In the result, the writ petition is dismissed.

G.S.SINGHVI, CJ

24th August, 2006

G.V.SEETHAPATHY, J

GRR